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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

MAERSK LINE,

Plaintiff,

-against-

ORDER

CV-07-3169(SJF)(JMA)

PHOENIX AGRO-INDUSTRIAL CORPORATION,

Defendant.

X

FEUERSTEIN, J.

On August 1, 2007, plaintiff Maersk Line ("plaintiff") commenced this admiralty action against defendant Phoenix Agro-Industrial Corporation ("defendant") seeking to recover unpaid shipping charges. On March 17, 2009, plaintiff's motion for the entry of a default judgment against defendant pursuant to Rule 55(b) of the Federal Rules of Civil Procedure and for the dismissal of defendant's counterclaim was referred to Magistrate Judge Joan M. Azrack for a report and recommendation in accordance with 28 U.S.C. § 636(b). On April 29, 2009, Magistrate Judge Azrack issued a Report and Recommendation ("the Report") recommending: (1) that the branch of plaintiff's motion seeking costs be denied; (2) that the branch of plaintiff's motion seeking prejudgment interest be granted to the extent of awarding plaintiff prejudgment interest at a rate of three percent (3%); (3) that plaintiff's motion otherwise be granted; (4) that the Court enter a final default judgment against defendant in the total amount of twenty-seven thousand one hundred thirteen dollars and fifty six cents (\$27,113.56), inclusive of liquidated damages and prejudgment interest; and (5) that defendant's counterclaim be dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. No objections have

been filed to the Report. For the reasons stated herein, the Court accepts Magistrate Judge Azrack's Report in its entirety.

I


Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 Fed.Appx. 374 (2d Cir. 2005); Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II

Neither party has filed any objections to Magistrate Judge Azrack's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Azrack's Report in its entirety and adopts the Report as an Order of the Court.

Plaintiff's motion is granted to the extent that plaintiff is awarded liquidated damages on its breach of shipping contract claims against defendant in the amount of twenty-five thousand six hundred thirty-eight dollars and seventy-five cents (\$25,638.75), plus prejudgment interest at a rate of three percent (3%) for the period from February 6, 2007 through January 23, 2009, for a total amount of twenty-seven thousand one hundred thirteen dollars and fifty-six cents (\$27,113.56), and that defendant's counterclaim is dismissed in its entirety with prejudice, and the motion is otherwise denied. The Clerk of the Court is directed to enter judgment in favor of plaintiff in accordance with this Order and to close this case.

SO ORDERED.


SANDRA J. FEUERSTEIN
United States District Judge

Dated: May 1, 2009
Central Islip, New York

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